IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

CRP.No. 419 of 2003(E)

(AGAINST THE ORDER DTD.13/08/02 OF THE CHAIRMAN, TALUK LAND BOARD, TALIPARAMBA IN TLB 479/73/TBA-ORDER RECEIVED ON 2/01/2003)

REVISION PETITIONER:

CHANGANAR NARAYANI, AGED 57 YEARS,
D/O. MADAVALAPPIL OTHENAN (LATE),
MUYYAM P.O., TALIPARAMBA TALUK.

BY ADV. SRI.M.CHATHUKUTTY NAMBIAR
SRI.C.MURALIKRISHNAN (PAYYANUR)

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE CHAIRMAN, TALUK LAND BOARD, TALIPARAMBA, CIVIL STATION, KANNUR.**

3. **THE VILLAGE OFFICER, CHUZHALI VILLAGE, TALIPARAMBA TALUK.**

BY GOVERNMENT PLEADER SMT. R.BINDU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.NO.1006/2003 IN C.R.P.NO.419/2003

DISMISSED

6/08/2007 **SD/- M.N.KRISHNAN, JUDGE**

/TRUE COPY/

P.A.TO JUDGE

KSS

M.N.KRISHNAN, J.

C.R.P.No.419 OF 2003 E

Dated this the 6th August, 2007.

JUDGMENT

This civil revision petition is preferred against the order of the Taluk Land Board, Taliparamba in TLB 479/73. The revision petitioner is one of the persons shown as No:17 in the order. The crux of the matter is as follows. The father of this revision petitioner claimed right over the property of 2.88 1/2 acres as per a marupatt document of 1943 and a certificate of purchase issued in O.A.12753/75. The survey number shown therein was 67/1A. It is seen that 60 cents of land covered in 66/1A has been taken possession of by the Taluk Land Board and distributed. The contention of the revision petitioner is that the property obtained by her father Othenan is comprised in survey No:66/1A1 and by mistake in the anterior document the survey number has been shown as 67/1A. The Taluk Land Board rejected the contention outright holding that the revision petitioner has been heard in the previous matter.

2. Learned counsel for the revision petitioner has brought to my notice a report filed by the Tahsildar in this case. The Tahsildar reports that the survey number of the property obtained by Mr. Othenan on the strength of the

marupatt and the certificate of purchase is comprised in 66/1A1 and not in 67/1A. He had also reported that realising these mistakes when the parties subsequently entered into a division in the year 1987 it has been corrected. So the point that arose for adjudication before the Land Board was whether the property obtained by Mr.Othenan by virtue of a marupatt certificate of purchase is the property that is taken or attempted to be taken possession of in the ceiling case. Mr. Othenan is entitled to fixity of tenure of 2.88 1/2 acres and according to the Tahsildar it is in survey No:66/1A1. Just because a wrong survey number is shown in an anterior document it will not take away the valid right if the party has got the same. It is a settled proposition of law that when there is a discrepancy regarding survey number the description of the property coupled with the boundaries may prevail in identifying the property. The Land Board has not taken note of any of these factors and simply rejected the contention of the revision petitioner on the ground that they were heard in a previous proceeding. What the Land Board is expected to decide is whether the property of 60 cents alleged to be taken from this revision petitioner is a property which forms part and parcel of the land obtained by Shri. Othenan under the 1943 marupatt as well as the

certificate of purchase. So, the enquiry of the Taluk Land Board should have been in that direction and not the other way. Therefore, the order impugned to that extent is unsustainable and therefore it is set aside. The revision petition is allowed and the matter is remitted back to the Taluk Land Board for fresh consideration. The Taluk Land Board is directed to consider whether the property having an extent of 60 cents claimed by the revision petitioner in survey No:66/1A1 belongs to her father by virtue of the 1943 marupatt and the certificate of purchase in the O.A. of 1975 and then determine the matter in accordance with law. It goes without saying that if this property forms part and parcel of the 2.88 1/2 acres claimed by Shri. Othenan then it shall not be taken into consideration for fixing the ceiling limit of the declarant in this case and even if the property is wrongly taken it has to be restored back to the original person entitled in law to be in possession of the same. Parties are directed to appear before the Taluk Land Board on 7.9.2007.

M.N.KRISHNAN
Judge

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